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August 31, 2005

**VIA CM/ECF & HAND DELIVERY**

The Honorable Sue L. Robinson  
J. Caleb Boggs Federal Building  
844 N. King Street, Room 6124  
Lockbox 31  
Wilmington, DE 19801

***Re: Lancaster Composite v. Hardcore Composite and Scott Hemphill  
Civil Action No. 04-1414 (SLR)***

Dear Judge Robinson:

In preparation for the discovery status conference on September 1, 2005, we hereby provide the Court with the status of discovery.

- By way of background, a discovery conference was held on June 27, 2005 (which Mr. Hemphill failed to attend). Our letter to you dated June 24, 2005 described the status at the time of that conference.
- As noted in our June 29, 2005 letter to you, Mr. Hemphill failed to submit any discovery responses on June 27, 2005 (the response date), nor has he ever provided the Rule 26 Disclosures.
- On June 30, 2005, Mr. Hemphill produced a stack of documents, purportedly responsive to the discovery requests of Lancaster Composite. However, the documents were provided in no particular order, and Mr. Hemphill did not provide at that time any formal response to the discovery requests or explanation as to which documents were responsive to which interrogatories or document request.
- On July 18, 2005, this Court entered an Order directing Mr. Hemphill to respond to all outstanding discovery requests on or before August 18, 2005, or show cause why judgment should not be entered against him.

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- On August 18, 2005, Mr. Hemphill filed and served documents he designated his "Response to First Request for Production of Documents and Things" and "Response to First Set of Interrogatories."
- In his "Responses," Mr. Hemphill failed to provide any meaningful information, particularly with respect to identifying facts and information relevant to Mr. Hemphill's alleged defenses, and facts and information relevant to Lancaster Composite's claim of patent infringement. Mr. Hemphill's "Responses" did not provide any additional explanation for or guide through the documents produced on June 30, 2005.
- Additionally, in his "Responses" to the Interrogatories, Mr. Hemphill, for the first time, identified six individuals who allegedly have information relevant to Mr. Hemphill's defense of patent invalidity. However, Mr. Hemphill failed to provide identifying information for those individuals and failed to provide any indication as to what information those individuals may have.
- Additionally, in his "Responses" to the Interrogatories, Mr. Hemphill identified 11 individuals (in addition to Mr. Robert Greene, President of Lancaster Composite), who allegedly have information relevant to the claims or defenses in this matter. However, Mr. Hemphill failed to provide identifying information for those individuals and failed to provide any indication as to what information those individuals may have.
- Contrary to this Court's Order of February 24, 2005, directing that all document production be completed on or before June 1, 2005, on August 18, 2005, Mr. Hemphill served upon Lancaster Composite, Inc. his "First Request for Production of Documents and Things," seeking voluminous documents, many of which have no relevance to the claims of Lancaster Composite or the asserted defenses of Mr. Hemphill.

Lancaster Composite hopes to explore with the Court at the Status Conference how the Court wishes to proceed, and specifically whether Lancaster Composite should file a motion for sanctions. However, under this Court's initial scheduling order, all discovery is to be completed by October 1, 2005. Meeting that discovery date is impossible, given Mr. Hemphill's consistent failure to comply with both the Federal Rules of Civil Procedure and this Court's Orders regarding discovery and management of this case.

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Thank you for your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin Guerke". The signature is fluid and cursive, with the first name "Kevin" written in a larger, more prominent script than the last name "Guerke".

Kevin A. Guerke  
(DE ID No. 4096)

cc: Clerk of Court (Via EM/ECF & Hand Delivery)  
George C. Werner, Esquire (via e-mail)  
Salvatore Anastasi, Esquire (via e-mail)  
W. Scott Hemphill (via e-mail)